



PATENT  
Attorney Docket No. 101.0044-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 7688  
Gary K. Michelson )  
Serial No.: 09/497,590 ) Group Art Unit: 3772  
Filed: June 6, 2000 ) Examiner: Michael A. Brown  
For: APPARATUS INCLUDING A GUARD )  
MEMBER HAVING A PASSAGE )  
WITH A NON-CIRCULAR CROSS )  
SECTION FOR PROVIDING )  
PROTECTED ACCESS TO THE )  
SPINE (as amended))

MS ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPLICATION FOR PATENT TERM ADJUSTMENT**

Pursuant to 37 C.F.R. § 1.705(a), Applicant respectfully requests reconsideration of the patent term adjustment as printed on the March 18, 2008 Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) attached to the Notice of Allowance in the above-identified application. Under the provisions of 37 C.F.R. § 1.705(b)(2), this Application for Patent Term Adjustment is accompanied by a Statement of Facts and the requisite fee of \$200 as specified by Section 1.18(e).

If there are any additional fees associated with the filing of this Request, charge any additional required fees to our deposit account 50-3726.

Respectfully submitted,

MARTIN &amp; FERRARO, LLP

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Dated: May 29, 2008

By: Thomas H. Martin  
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Sir:

**STATEMENT OF FACTS IN SUPPORT OF  
APPLICATION FOR PATENT TERM ADJUSTMENT**

The undersigned declares as follows:


1. A Determination of Patent Term Adjustment under 35 U.S.C. 154(b) issued on March 18, 2008 with the Notice of Allowance and Fees Due in the above-identified application, incorrectly lists the Patent Term Adjustment as 1193 days instead of 1221 days.
2. On March 31, 2006, the undersigned timely filed an Amendment in response to the December 1, 2005 Office Action. Thereafter, the Examiner issued a further Action on August 28, 2006, causing a 28-day delay over the allowable 4-month period.
3. The above-identified application is not subject to a Terminal Disclaimer.
4. I further declare that all statements made herein of my own knowledge are true and that all statements made on Information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 1 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: May 29, 2008

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